

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**SEAN FIGARO,**  
**Plaintiff,**

**V.**

**MR. PISTRO, *et al*,**  
**Defendants.**

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**CIVIL ACTION NO. 21-CV-2346**

**ORDER**

AND NOW, this 22<sup>nd</sup> day of June, 2021, upon consideration of Plaintiff Sean Figaro's Motion to Proceed *In Forma Pauperis* and Prisoner Trust Fund Account Statement (ECF No. 1-1), and his *pro se* Complaint (ECF No. 1), it is **ORDERED** that:

1. Leave to proceed *in forma pauperis* is **GRANTED** pursuant to 28 U.S.C. § 1915.
2. Sean Figaro, #70655050, shall pay the full filing fee of \$350 in installments, pursuant to 28 U.S.C. § 1915(b), regardless of the outcome of this case. The Court directs the Warden of the Federal Detention Center in Philadelphia or other appropriate official to assess an initial filing fee of 20% of the greater of (a) the average monthly deposits to Figaro's inmate account; or (b) the average monthly balance in Figaro's inmate account for the six-month period immediately preceding the filing of this case. The Warden or other appropriate official shall calculate, collect, and forward the initial payment assessed pursuant to this Order to the Court with a reference to the docket number for this case. In each succeeding month when the amount in Figaro's inmate trust fund account exceeds \$10.00, the Warden or other appropriate official shall forward payments to the Clerk of Court equaling 20% of the preceding month's income credited to Figaro's inmate account until the fees are paid. Each payment shall refer to the docket number for this case.

3. The Clerk of Court is directed to **SEND** a copy of this Order to the Warden of the Federal Detention Center in Philadelphia.

4. The Complaint is **DEEMED** filed.

5. For the reasons stated in the Court's Memorandum, Figaro's claims against Defendants Pistro, Lawrie, Knox, and Root are **DISMISSED WITHOUT PREJUDICE** for failure to state a claim pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii).

6. The Clerk of Court is directed to **SEND** Figaro a blank copy of the Court's standard form complaint for prisoners to use to file a complaint bearing the above civil action number.<sup>1</sup>

7. Figaro is given thirty (30) days to file an amended complaint in the event he can allege additional facts to state a plausible claim against Defendants Pistro, Lawrie, Knox, and Root. Any amended complaint shall identify all defendants in the caption of the amended complaint in addition to identifying them in the body of the amended complaint, shall state the basis for Figaro's claims against each defendant, and shall bear the title "Amended Complaint" and the case number 21-2346. **If Figaro files an amended complaint, his amended complaint must be a complete document that includes all of the bases for Figaro's claims, including claims that the Court has not yet dismissed if he seeks to proceed on those claims. Claims that are not included in the amended complaint will not be considered part of this case.**

When drafting his amended complaint, Figaro should be mindful of the Court's reasons for dismissing his claims as explained in the Court's Memorandum. Upon the filing of an amended complaint, the Clerk shall not make service until so **ORDERED** by the Court.

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<sup>1</sup> This form is available on the Court's website at <http://www.paed.uscourts.gov/documents/forms/frmc1983f.pdf>.

8. If Figaro does not file an amended complaint the Court will direct service of his initial Complaint on Defendants Williams and Shannon only. Figaro may also notify the Court that he seeks to proceed on these claims rather than file an amended complaint. If he files such a notice, Figaro is reminded to include the case number for this case, 21-2346.

9. The time to serve process under Federal Rule of Civil Procedure 4(m) is **EXTENDED** to the date 90 days after the Court issues summonses in this case if summonses are issued.

**BY THE COURT:**

**/s/ Hon. C. Darnell Jones II**

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**C. DARNELL JONES, II, J.**